

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

LuAnne Janssen, as Personal Representative of
the Estate of Warren S. Lindvold,

Case No.: 3:19-cv-00079

Plaintiff,

v.

City of Valley City,
Christopher Olson,
Wade Hannig,
Barnes County,
Barnes County Sheriff Randy McClafin,
Jenna Jochim,
Richard Chase,
Bruce Potts,
Jesse Burchill,
Barnes County Ambulance, Inc.,
National Medical Resources, Inc.,
Mercy Hospital of Valley City d/b/a
CHI Mercy Health,

**Answer of Mercy Hospital of Valley
City d/b/a CHI Mercy Health and
Demand for Trial by Jury**

Defendants.

Defendant Mercy Hospital of Valley City d/b/a CHI Mercy Health, for its Answer to Plaintiff's Complaint, states:

1. Denies each and every allegation in Plaintiff's Complaint, except as otherwise admitted or qualified in this Answer.
2. Is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3 and 4 of Plaintiff's Complaint.
3. The allegations set forth in paragraphs 5-19, 21-22, 25-225, 228-306, 310-325 of Plaintiff's Complaint are not directed to this answering Defendant, and this answering Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's

allegations regarding the events before and after Warren Lindvold was brought to Mercy Hospital of Valley City d/b/a CHI Mercy Health on either occasion. Therefore a responsive pleading is not necessary.

4. Admits Mercy Hospital of Valley City, operating under the trade name of CHI Mercy Health, is a North Dakota nonprofit corporation providing medical services that include an emergency department located in Valley City, North Dakota (hereinafter “Mercy Hospital”).

5. Admits Sheri Lutjens, RN, was employed by Mercy Hospital at all times relevant to the care and treatment of Mr. Lindvold and was acting within the scope of her employment with Mercy Hospital.

6. Denies Mark Klabo, PA, was an employee and/or agent of Mercy Hospital.

7. Admits Mercy Hospital contracted with National Medical Resources, Inc., to provide physicians, physician assistants, and nurse practitioners to perform emergency medical services for its emergency department, but denies the allegations contained in paragraph 467 to the extent inconsistent with the plain language of the Contract.

8. Admits Mr. Lindvold was seen twice in the emergency department of Mercy Hospital. Regarding the specific allegations contained in Plaintiff’s Complaint about care and treatment provided to Mr. Lindvold by Mark Klabo, PA, and Sheri Lutjens, RN, when he was first brought to the emergency room, the actual care and treatment is documented in Mr. Lindvold’s emergency department medical records. Mr. Lindvold was examined and determined stable for discharge by Mark Klabo, PA. To the extent any allegations in Plaintiff’s Complaint are inaccurate or inconsistent with the actual records, they are denied.

9. Admits Mr. Lindvold was transferred from Mercy Hospital to Sanford Health in Fargo after he was brought to the emergency department the second time. Mercy Hospital is

without sufficient information or knowledge to form a belief as to the truth of Plaintiff's allegations regarding the events after Mr. Lindvold was transferred.

10. Denies Mercy Hospital or any employee or agent of Mercy Hospital was in any way negligent in their care and treatment of Mr. Lindvold. The medical care and treatment provided to Mr. Lindvold was appropriate and met the standard of care.

11. Denies any alleged action or inaction on the part of Mercy Hospital or any employee or agent of Mercy Hospital was the direct or proximate cause of Mr. Lindvold's injuries, death, and damages.

12. The injuries, death, and damages alleged in Plaintiff's Complaint were the result of natural or other causes and/or acts or omissions of Mr. Lindvold or other persons for whom Mercy Hospital is not responsible and over whom it had no control.

13. To the extent any EMTALA obligation arose, deny Mercy Hospital or any employee or agent of Mercy Hospital failed to provide an appropriate medical screening examination of Mr. Lindvold or otherwise failed to comply with EMTALA. Further deny any alleged action or inaction on the part of Mercy Hospital or any employee or agent of Mercy Hospital was the direct or proximate cause of Mr. Lindvold's injuries, death, and damages, based on any purported EMTALA violation.

14. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

15. Pending completion of discovery, allege and assert all other applicable defenses available under Rules 8, 9, and 12 of the Federal Rules of Civil Procedure.

16. Counsel for Mercy Hospital has complied with the requirements of N.D.C.C. § 32-42-03 relating to alternative dispute resolution.

17. Mercy Hospital requests a jury trial as to all issues in accordance with the Federal Rules of Civil Procedure by the maximum number of jurors allowed by law.

WHEREFORE, Defendant Mercy Hospital of Valley City d/b/a CHI Mercy Health requests the Court dismiss Plaintiff's Complaint with prejudice and award costs incurred in the defense of this action.

Dated this 8th day of July, 2019.

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Certificate of Service

I hereby certify that the foregoing was filed with the Clerk of Court through ECF and that ECF will send a Notice of Electronic Filing (NEF) to the following:

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Dated this 8th day of July, 2019.

/s/ Tracy Vigness Kolb

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